



DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-998]

1,1,1,2-Tetrafluoroethane from the People's Republic of China: Antidumping Duty Investigation; Amended Affirmative Preliminary Determination of Critical Circumstances

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (“the Department”) is amending the preliminary determination of the less-than-fair-value (“LTFV”) investigation of 1,1,1,2-Tetrafluoroethane (“tetrafluoroethane”) from the People’s Republic of China (“PRC”) to correct a significant ministerial error with respect to our preliminary critical circumstances determination. The period of investigation is April 1, 2013, through September 30, 2013.

DATES: *Effective* [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Frances Veith or Bob Palmer, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4295 or (202) 482-9068, respectively.

SUPPLEMENTARY INFORMATION: On May 29, 2014, the Department published its Preliminary Determination.¹ On May 22, 2014, the Department disclosed to interested parties its calculations for the Preliminary Determination. On May 27, 2014, we received ministerial error comments from Mexichem Fluor, Inc. (“Petitioner”) alleging that the Department made certain significant ministerial errors in the Preliminary Determination. No other party made an allegation of ministerial errors. On May 30, 2014, Weitron International Refrigeration

¹ See 1,1,1,2-Tetrafluoroethane From the People’s Republic of China: Antidumping Duty Investigation, Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances, in Part, and Postponement of Final Determination, 79 FR 30817 (May 29, 2014) (“Preliminary Determination”).

Equipment (Kunshan) Co., Ltd. provided reply comments to Petitioner's allegation. After reviewing the allegations, we determine that the Preliminary Determination included a significant ministerial error with respect to our preliminary critical circumstances determination. Therefore, we made a change, as described below, to the Preliminary Determination.

Scope of the Investigation

The product subject to this investigation is 1,1,1,2-Tetrafluoroethane, R-134a, or its chemical equivalent, regardless of form, type, or purity level. The chemical formula for 1,1,1,2-tetrafluoroethane is $\text{CF}_3\text{-CH}_2\text{F}$, and the Chemical Abstracts Service ("CAS") registry number is CAS 811-97-2.

1,1,1,2-Tetrafluoroethane is sold under a number of trade names including Klea 134a and Zephex 134a (Mexichem Fluor); Genetron 134a (Honeywell); Suva 134a, Dymel 134a, and Dymel P134a (DuPont); Solkane 134a (Solvay); and Forane 134a (Arkema). Generically, 1,1,1,2-tetrafluoroethane has been sold as Fluorocarbon 134a, R-134a, HFC-134a, HF A-134a, Refrigerant 134a, and UN3159.

Merchandise covered by the scope of this investigation is currently classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheading 2903.39.2020. Although the HTSUS subheading and CAS registry number are provided for convenience and customs purposes, the written description of the scope is dispositive.

Analysis of Significant Ministerial Error Allegation

A ministerial error is defined in 19 CFR 351.224(f) as "an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial." With respect to preliminary determinations in investigations, 19 CFR 351.224(e) provides that

the Department “will analyze any comments received and, if appropriate, correct any significant ministerial error by amending the preliminary determination. . .” A significant ministerial error is defined as an error, the correction of which, singly or in combination with other errors, would result in: (1) a change of at least five absolute percentage points in, but not less than 25 percent of, the antidumping duty rate calculated in the original (erroneous) preliminary determination; or (2) a difference between an antidumping duty rate of zero (or de minimis) and an antidumping duty rate of greater than de minimis or vice versa.²

As explained further in the Ministerial Error Memorandum issued concurrently with this Notice,³ we determine that the Preliminary Determination contained an error with respect to our preliminary critical circumstances calculation. Correction of this error results in a determination that Bluestar’s imports were “massive” during the comparison period and changes the preliminary critical circumstances determination from a negative to an affirmative determination for Bluestar.⁴ The Department considers this ministerial error to be significant warranting an amendment to our preliminary critical circumstances determination with respect to Bluestar. The Department does not consider any of the other alleged ministerial errors to be significant within the meaning of 19 CFR 351.224(g).⁵

² See 19 CFR 351.224(g).

³ See Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, from James C. Doyle, Director, Office V, through Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled, “Antidumping Duty Investigation of 1,1,1,2-Tetrafluoroethane from the People’s Republic of China: Allegation of a Significant Ministerial Error in the Preliminary Determination,” dated concurrently with this notice for the analysis performed (“Ministerial Error Memorandum”). This memorandum is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (“IA ACCESS”). IA ACCESS is available to registered users at <http://iaaccess.trade.gov>, and is available to all parties in the Department’s Central Records Unit in Room 7046 of the Department of Commerce building.

⁴ Id.

⁵ See Ministerial Error Memorandum.

Amended Affirmative Preliminary Determination of Critical Circumstances

The Department determines that there was a significant ministerial error in the critical circumstances calculation for Bluestar in the Preliminary Determination. Consequently, we are amending the critical circumstances preliminary determination with respect to Bluestar pursuant to 19 CFR 351.224(e). Specifically, we found an unintentional error in our calculation under the statutory criteria involving massive imports over a relatively short period.⁶ In our corrected calculation of Bluestar's massive import analysis, we found that imports based on Bluestar's reported shipments of merchandise under consideration increased during the comparison period by more than 15 percent over its respective imports in the base period.⁷ Therefore, we amend our preliminary determination and find there also to be massive imports for Bluestar, pursuant to section 733(e)(1)(B) of the Tariff Act of 1930, as amended (the "Act") and 19 CFR 351.206(c)(2)(i). Accordingly, as both conditions under section 733(e)(1)(A)(ii) and 733(e)(1)(B) of the Act have been satisfied, we find that critical circumstances exist with respect to Bluestar.

Suspension of Liquidation

The collection of cash deposits and suspension of liquidation will be revised, in accordance with section 733(e)(2) of the Act because we have preliminarily found that critical circumstances exist with regard to imports exported by Bluestar. We will instruct U.S. Customs and Border Protection ("CBP") to suspend liquidation of all entries⁸ of tetrafluoroethane from the PRC, that are entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days

⁶ See section 733(e)(1)(B).

⁷ See Ministerial Error Memorandum, Allegation 1 and Attachment.

⁸ In the Preliminary Determination, we found that critical circumstances exist with respect to all exporters except for Bluestar. See Preliminary Determination, 79 FR at 30818. We note that we inadvertently omitted language in the "Suspension of Liquidation" section indicating that we will instruct CBP to suspend liquidation on the applicable entries on or after the date which is 90 days before the date on which the suspension of liquidation was first ordered. The correct suspension of liquidation language for all entries is provided here.

before the date on which the suspension of liquidation was first ordered (i.e., May 29, 2014, the date of publication in the Federal Register of the notice of an affirmative preliminary determination that tetrafluoroethane is being, or is likely to be, sold in the United States at LTFV).

We will also instruct CBP to require a cash deposit equal to the estimated preliminary antidumping duty rate reflected in the Preliminary Determination. This suspension of liquidation will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 733(f) of the Act, we will notify the International Trade Commission (“ITC”) of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Enforcement and Compliance.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.224(e).

Dated: June 24, 2014.

Paul Piquado,
Assistant Secretary
for Enforcement and Compliance.

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